

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	Case No. 1:20-CR-143
v.	)	
	)	Honorable T.S. Ellis, III
ZACKARY ELLIS SANDERS,	)	
	)	
<i>Defendant.</i>	)	
_____	)	

**GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S  
MOTION TO EXTEND BRIEFING SCHEDULE**

On August 17, 2020, the defendant filed a motion to extend the deadline to file pretrial motions from August 20, 2020, to seven days after the Court rules on his pending pretrial motion to compel, and to reset the hearing on any additional pretrial motions to three weeks after that new deadline. Dkt. No. 66 ("Mot."). The United States of America, by and through undersigned counsel, hereby files this response in opposition to the defendant's motion.

At the arraignment in this matter, the Court set a pretrial motions filing deadline of August 20, 2020, and set a pretrial motions hearing for September 11, 2020. At the defendant's request, the Court also set a hearing on a defense motion to compel for July 31, 2020. Following the hearing on his motion to compel, the defendant sought and obtained leave to file additional briefing on the matter. Now, the defendant seeks to effectively suspend the previously agreed-upon pretrial motions briefing schedule and hearing date because the Court has not yet ruled on his pending pretrial motion to compel. This request should be denied.

The defendant has had the affidavit in support of the residential search warrant that led to the charges in this case for months. He has also received all relevant and material discovery related to this search warrant, which together form the basis of his pending motion to compel. In other

words, the defendant has all the information he needs to file his intended motion to suppress and motion for a *Franks* hearing. That he believes he may be entitled to more discovery should not provide a basis to continue the agreed-upon pretrial motions briefing schedule. This is particularly true given that the defendant's primary arguments in favor of his pending motion to compel are the exact arguments he has signaled he intends to raise in a motion for a *Franks* hearing—that is, he has argued that he is entitled to more discovery and a *Franks* hearing because he believes that the affidavit contains knowing and intentional falsehoods regarding information that was necessary to the finding of probable cause. Finally, neither Fed. R. Crim. P 12(d) nor *Brown v. Booker*, 622 F. Supp. 993, 995 (E.D. Va. 1985)—which concerned a court's decision not to issue a certificate of appealability in the habeas context—support his asserted entitlement to a ruling on all pending pretrial motions before he files any additional pretrial motions. Mot. at 2 n.1.

Accordingly, the government respectfully asks that the Court deny the defendant's motion to extend the pretrial motions briefing schedule and to continue the pretrial motions hearing.

Respectfully submitted,

G. Zachary Terwilliger  
United States Attorney

Date: August 19, 2020

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